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TRANSCRIPT OF RECORD

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 248

ANDREW JORDAN, DISTRICT DIRECTOR OF IMMIGRA-  
TION AND NATURALIZATION, PETITIONER

SAN DE GEORGE

ON WRIT OF HABEAS CORPUS TO THE UNITED STATES COURT OF  
APPEALS FOR THE SEVENTH CIRCUIT

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PETITION FOR CERTIORARI FILED OCTOBER 5, 1950  
CERTIORARI GRANTED NOVEMBER 27, 1950

In the  
**United States Court of Appeals**  
**For the Seventh Circuit**

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**No. 10016**

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IN THE MATTER OF THE APPLICATION OF SAM DE GEORGE  
FOR A WRIT OF HABEAS CORPUS.

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**SAM DE GEORGE,**

*Relator-Appellant,*

*vs.*

**ANDREW JORDAN, DISTRICT DIRECTOR OF IMMIGRATION  
AND NATURALIZATION,**

*Respondent-Appellee.*

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Appeal from the United States District Court for the  
Northern District of Illinois, Eastern Division.

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1      Pleas had at a regular term of the United States District Court for the Eastern Division of the Northern District of Illinois begun and held in the United States Court Rooms in the City of Chicago in the Division and District aforesaid on the first Monday of October (it being the 3rd day thereof) in the Year of Our Lord One Thousand Nine Hundred and Forty-Nine and of the Independence of the United States of America, the 174th Year

**Present:**

Honorable John P. Barnes, District Judge.  
Honorable Philip L. Sullivan, District Judge.  
Honorable Michael L. Igoe, District Judge.  
Honorable William J. Campbell, District Judge.  
Honorable Walter J. LaBuy, District Judge.  
Honorable Elwyn R. Shaw, District Judge.  
Honorable William H. Holly, District Judge.  
Roy H. Johnson, Clerk.  
Thomas P. O'Donovan, Marshal.

Monday, October 3, 1949.

Court met pursuant to adjournment.

Present: Honorable William J. Campbell, Trial Judge.



2

*Petition.*

2

IN THE UNITED STATES DISTRICT COURT.

For the Northern District of Illinois,  
Eastern Division.

In the Matter of the Application of  
Sam De George } No. 49 C 406.  
For a Writ of Habeas Corpus.

Be It Remembered, that on to wit the 8th day of March, 1949, the above-entitled action was commenced by the filing of the following Petition in the office of the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division; in words and figures following, to wit:

3

UNITED STATES DISTRICT COURT.

\* \* (Caption—49-C-406) \* \*

To the District Court of the United States for the Northern District of Illinois:

To the Honorable Judge of Said Court:

The petition of Sam DeGeorge respectfully shows: (1) that petitioner, Sam DeGeorge, is now in custody and restrained of his liberty by Andrew Jordan, District Director of the United States Immigration and Naturalization Service, Department of Justice, Chicago, Illinois;

(2) That the cause or pretense of such imprisonment and restraint, according to the best knowledge and belief of your petitioner, is a certain warrant of deportation (a copy of which is hereto annexed);

(3) That said imprisonment and restraint are illegal and they consist, among other things, of the following, to-wit:

Warrant of deportation alleges that your petitioner has been sentenced, subsequent to May 1st, 1917, to imprisonment more than once for a term of one year or more for the commission subsequent to entry of a crime involving moral turpitude, to-wit:

Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy): Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy).

That the alleged grounds set forth in said warrant are insufficient in law and in fact to justify the deportation of petitioner.

4 (4) That the petitioner seeks due process of law.

(5) Petitioner was born in Palermo, Italy, in 1904, and entered the United States at New York City legally in 1921; he was married in 1928 in Harvey, Illinois, to an American citizen, and was divorced in 1939. On January 18, 1944, petitioner was married to an American citizen born in Salem, Illinois. Petitioner has one child, seventeen years of age, by his first marriage, and has always contributed to the support of said child.

Petitioner has real estate at Harvey, Illinois, worth about Twenty Thousand Dollars (\$20,000.00) and of which he is one-half owner. Petitioner has never been convicted of any crime of violence and made application for citizenship papers in 1928 and 1933. He registered as an alien and was sentenced to the penitentiary in 1941, and since his release from prison, has been employed as a chef, in addition to being one-half owner in the business, and has had a good moral character for the past seven (7) years.

Petitioner has been living in America continuously since 1921; he has purchased war bonds and was active in civic affairs. Petitioner evaded tax on alcohol and has been punished civilly and criminally, but he feels that these illegal acts were not base or vile or depraved, and, therefore, the crime did not involve moral turpitude.

That no previous application has been made for the writ below prayed for.

Wherefore, your petitioner prays that a writ of Habeas Corpus issue directed to the said Andrew Jordan, Commanding him to have the body of Sam DeGeorge together with the cause of such imprisonment and restraint, forthwith before this Court.

Sam DeGeorge.

*Warrant of Deportation.*

State of Illinois }  
 County of Cook } ss.

Sam DeGeorge, the petitioner, above named, being first duly sworn, on oath says that he has heard and read the foregoing petition by him subscribed, and knows the contents thereof, and that the same is true of his own knowledge, except as to the matters and things therein stated to be upon information and belief, and as to those matters he believes it to be true.

Sam DeGeorge.

Subscribed and sworn to before me this 7th day of March, 1949.

Constantine P. Panatsos,  
*Notary Public.*

(Seal)

## UNITED STATES OF AMERICA

Department of Justice,

Philadelphia, Pa.

## Warrant—Deportation of Alien.

No. 4136/193  
 56090/201

To: District Director of Immigration and Naturalization,  
 Chicago, Illinois.

Or to any Officer or Employee of the United States Immigration and Naturalization Service.

Whereas, after due hearing before an authorized immigrant inspector, and upon the basis thereof, an order has been duly made that the alien Salvatore DiGiorgio alias Sam DeGeorge who entered the United States at New York, New York, ex SS "Re D'Italia" on the 25th day of Apr. 1921 is subject to deportation under the following provisions of the laws of the United States to wit: The Act of 1917, in that he has been sentenced, subsequent to May 1, 1917, to imprisonment more than once for a term of one year or more for the commission subsequent to entry of a crime involving moral turpitude,



to wit: Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy).

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, do hereby command you to deport the said alien to Italy, at the expenses of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1946," including the expenses of an attendant, if necessary. It is further ordered that execution of the warrant be deferred for a period of six months to allow the alien to apply for a pardon.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 11th day of January, 1946.

A. R. Mackey,

*Chief Exclusion and Expulsion Section.*

6 And afterwards on, to wit, the 16th day of March, 1949 came the Respondent, Andrew Jordan, District Director of Immigration and Naturalization by his attorneys and filed in the Clerk's office of said Court his certain Return To Writ of Habeas Corpus in words and figures following, to wit:

7 IN THE DISTRICT COURT OF THE UNITED STATES.  
\* \* (Caption—49-C-406) \* \*

### RETURN TO WRIT OF HABEAS CORPUS.

To the Honorable William J. Campbell, Judge of the District Court of the United States for the Northern District of Illinois.

1. Now comes Andrew Jordan, District Director of Immigration and Naturalization, United States Department of Justice, Chicago, Illinois by Otto Kerner, Jr., United States Attorney for the Northern District of Illinois, and makes the following return to writ of habeas corpus issued herein commanding him to produce the body of Sam DeGeorge before this honorable court and make return as to the time, detention, and restraint and of his doing in the premises.

2. Your respondent alleges the facts to be that the relator was arrested January 15, 1942 by Immigrant Inspector Henry S. Vreeland on a warrant of arrest issued October 10, 1941 by W. W. Brown, Chief, Warrant Branch, Immigration and Naturalization Service, Department of Justice, a copy of which warrant is attached hereto, marked Exhibit A and made a part of this return. Pursuant to the aforesaid warrant of arrest a hearing was opened on May 7, 1942 in the penitentiary at Leavenworth to give the relator an opportunity to show cause why he should not be deported on the charge in the warrant of arrest. Before any testimony was taken he was advised by Presiding Inspector C. W. Young that he had the right to be represented at the hearing by counsel. The relator said he desired to be so represented whereupon the hearing was continued until such time as the relator could arrange for counsel. The hearing was resumed September 14, 1943 in the New Post Office Building, Chicago, Illinois before Presiding Inspector E. W. Krause, at which time the relator was represented by counsel of his own choice. A transcript of the record of hearing is attached hereto, identified as Exhibit B and made a part of this return.

3. The relator testified that he was born in Italy November 25, 1904 and that he is a citizen of Italy. He identified as relating to him a certified copy of Indictment, Judgment and Commitment in case No. 1476 in the District Court of the United States for the Southern District of Ohio, Western Division at Dayton, Ohio, entitled *United States vs. Sam DeGeorge, et al.*, disclosing that one Sam DeGeorge was convicted on his plea of guilty to the charge of conspiracy to violate Title 18, Section 88, United States Code and sentenced on May 27, 1938 to serve one (1) year and one (1) day in the penitentiary (Exhibit B, page 9 and Exhibit B (3)). He also identified as relating to him a certified copy of Indictment, Judgment and Commitment in criminal case No. 1105 in the District Court of the United States, Northern District of Indiana, Fort Wayne Division, entitled *United States vs. Matthew Salvatore Anello, Ralph C. Glenn, Sam DeGeorge, Gregory Joseph Griffo, George Juszck, Joe DeGeorge, Joe Messina, Thomas Morgano*, disclosing that Sam DeGeorge, alias Sam DiGeorge, alias Sam Fosso, alias Sam Bello was convicted on June 6, 1941 of violation of Title 18, Section 88, United States Code

and was sentenced to serve two (2) years in the penitentiary (Exhibit B, page 9 and Exhibit B (4)).

4. The respondent avers that violation of Section 18, Title 88, United States Code is a crime involving moral turpitude and has been so held by the courts. In the case of *United States ex rel Berlandi v. Reimer*, 113 F. 2d 429, decided by the Circuit Court of Appeals for the Ninth Circuit in 1940, the defendant was convicted on May 26, 1938 under Title 18, Section 88, United States Code, on his plea of guilty of conspiracy with others to violate the Internal Revenue laws. He was sentenced to a year 9 and a day in the penitentiary. In holding that the crime involves moral turpitude the court said:

"It may be that, before the repeal of the 18th Amendment when prosecutions under internal revenue statutes were but alternatives for prosecutions under the Volstead Act, convictions under these various statutes would have been treated alike so far as any question of moral turpitude was concerned. This might seem natural because, except under rare circumstances, the manufacture or sale of liquor was unlawful and the manufacturer or seller could acquire no right to do a lawful business by merely complying with internal revenue statutes and paying taxes. Hence there would in no case be any specific intent to defraud the government but only a general purpose to disregard the prohibition laws. Since the repeal, however, the situation would seem to be different for the business can now be lawfully conducted by the payment of internal revenue taxes and the specific intent becomes one of enhancing profits by evading taxes, rather than of satisfying the demand for liquor which the Prohibition Act refused to sanction.

"We think it cannot be said that one who conducts a business with intent to defraud the government of taxes and who probably could not conduct it at a profit if he paid the taxes stands in a different position from that of a person who defrauds a private citizen of property. An intent to steal or defraud in the latter case has repeatedly been held to render an offense one which involves moral turpitude and for which an alien may be deported or excluded under the Immigration laws. *United States ex rel. Robinson v. Day*, 2 Cir., 51 F. 2d 1022; *United States v. Kellogg*, 58 App. D. C. 360, 30 F. 2d 984, 71 A. L. R. 1210; *Tillinghast v. Edmead*, 1 Cir., 31 F. 2d 81; *United States v. Burmaster*, 8 Cir., 24 F. 2d 57.



"The strongest argument for the alien is perhaps his own that he was only a 'moonshiner,' but this to us is not persuasive. Fraud has ordinarily been the test whether crimes not of the gravest character involved moral turpitude in the sense of the statute. Here fraud was established by the judgment of conviction. The man was a persistent violator of the revenue laws, with the evident intention of plying a trade that would enable him to make money by defrauding the government of taxes. We cannot say that such a business was not disreputable and did not involve moral turpitude in a sense generally accepted, however lightly 'moonshining' is sometimes regarded."

In the case of *Maita v. Haff*, 116 F. 2d 337, decided by the Circuit Court of Appeals in the Ninth Circuit December 18, 1940, it was also held that engaging in the business of a distiller of alcohol with intent to defraud the United States of the taxes on the spirits distilled, is a crime involving moral turpitude.

10 6. It is further averred that the Attorney General by his legally designated officers, having considered the evidence adduced at the relator's hearing and being satisfied that the relator is subject to deportation, on January 11, 1946 issued a warrant of deportation directing that the relator be deported to Italy on the charge that he is subject to deportation under the Immigration Act of February 5, 1917 in that he has been sentenced subsequent to May 1, 1917 to imprisonment more than once for a term of one year or more for the commission subsequent to entry of a crime involving moral turpitude, to wit: Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy). A copy of the warrant of deportation is attached hereto, identified as Exhibit C and made a part of this return.

7. Your respondent further avers that the decision of the Attorney General is final, as more fully appears from the concluding sentence of Section 19(a) of the Immigration Act of February 5, 1917 (Section 155, Title 8, U. S. C.), which reads as follows: "In every case where a person is ordered deported from the United States under the provisions of this Act or any law or treaty, the decision of the Attorney General shall be final."

8. Your respondent further informs the Court that arrangements were first made to remove the relator to Italy

in accordance with the outstanding warrant of deportation on January 16, 1947 but that on January 10, 1947 the relator, in accordance with his request, was granted a stay of deportation by the Assistant Commissioner of Immigration and Naturalization; that under date of July 27, 1948 the Assistant Commissioner directed your respondent to proceed with the relator's deportation; that your respondent then made arrangements to effect the relator's deportation on November 10, 1948 whereupon he applied for a further stay of deportation to permit him to adjust his personal and business affairs. In accordance with this request the Assistant Commissioner of Immigration and Naturalization on January 18, 1949 granted him a further stay of deportation for thirty days. This extension having expired your respondent again seeks to execute the outstanding warrant of deportation.

9. The following exhibits are attached hereto, made a part of this return and certified to the Court as copies of the record of said relator:

Exhibit "A"—Copy of Warrant of Arrest issued by W. W. Brown, Chief, Warrant Branch, Immigration and Naturalization Service; October 10, 1941.

Exhibit "B"—Transcript of Record of Hearing.

Exhibit "C"—Copy of Warrant of Deportation issued by A. R. Mackey, Chief, Exclusion and Expulsion Section, Immigration and Naturalization Service, Department of Justice, January 11, 1946.

The complete file of the Commissioner of Immigration and Naturalization is also attached hereto and certified to the Court for examination, with the request that leave be granted to your respondent to withdraw the file after the hearing on petition for writ of habeas corpus in order that the file may be returned to the Commissioner.

Wherefore, your respondent, having made a full and true return to the writ of habeas corpus heretofore issued, herein, prays that the said writ of habeas corpus be discharged; that the petition for writ of habeas corpus be dismissed, and that the relator be remanded to the custody of the respondent, Andrew Jordan, to be dealt with according to the law of the United States of America.

Otto Kerner, Jr.,

*United States Attorney.*

State of Illinois, }  
County of Cook. } ss.

Andrew Jordan, being first duly sworn, deposes and says that he is the District Director of Immigration and Naturalization at Chicago, Illinois; that he has read the foregoing return to the writ of habeas corpus and that the statements contained therein are true and correct to the best of his knowledge and belief.

Andrew Jordan.

Subscribed and sworn to before me this 14th day of March, 1949.

(Seal)

Francis M. Symmes,  
Notary Public.

UNITED STATES OF AMERICA

Department of Justice

Washington

Warrant

For Arrest of Alien.

No. 1100/7736

No. 56090/201

To District Director of Immigration and Naturalization,  
Kansas City, Mo.

Or to any Immigrant Inspector in the service of the United States.

Whereas, from evidence submitted to me, it appears that the alien Sam DeGeorge, who entered this country at New York, N. Y. ex SS "Re D'Italia" on the 25th day of April, 1921, has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The act of 1917, in that he has been sentenced, subsequent to May 1, 1917, to imprisonment more than once for a term



of one year or more for the commission subsequent to entry of a crime involving moral turpitude, to wit: Violation of Internal Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy).

I, by virtue of the power and authority vested in me by the laws of the United States, hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation "Salaries and Expenses, Immigration and Naturalization Service, 1942."  
(Seal)

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 10th day of October, 1941.

/s/ W. W. Brown,  
Chief, Warrant Branch.

js

13

K. C. File 1100/7736  
C. O. File 56090/201

Hearing:

Date: May 7, 1942.

Place: U. S. Penitentiary, Leavenworth, Kansas.

Presiding Inspector and Secretary: C. W. Young.

Presiding Inspector to Alien:

Q. Are you able to speak and understand the English language?

A. Yes, sir.

Q. What is your full true and correct name?

A. Sam DeGeorge.

Q. You are advised that I conducted the investigation in your case and it is desired that you state for the record whether you consent to my acting as Presiding Inspector at the hearing under Warrant of Arrest in your case.

A. Well, it doesn't make any difference to me. I have no objection to you giving the hearing.

Q. I have before me Warrant of Arrest issued at Washington, D. C. on October 10, 1941 wherein it is charged that Sam DeGeorge entered the United States on April 25, 1921 and has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The act of 1917, in that he has been sentenced, subsequent to May 1, 1917, to imprisonment more than once for a term of one year or more for the commission subsequent to entry of a crime involving moral turpitude, to wit: Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy), which means in plain language that you are subject to deportation because, since May 1, 1917 and subsequent to your entry into the United States, you have been sentenced more than once to more than one year for crimes involving moral turpitude. Do you understand?

A. Yes, sir.

Q. I now hand this Warrant of Arrest to you for your inspection and will furnish you a copy which you may retain in your possession. Do you fully understand the nature of the charge contained in this warrant?

A. Yes, sir.

Q. You are advised that this Warrant of Arrest which has been handed to you for your inspection, a copy of which has been furnished you, is now entered of record in your case and made a part thereof as Exhibit 1. Do you understand?

A. Yes, sir.

14 Q. You are informed that the purpose of this hearing is to afford you an opportunity to show cause why you should not be deported. Is that clear to you?

A. Yes, sir, I understand.

Q. You are advised that at this proceeding you have the right to be represented by counsel at your own expense if you so desire, which may be an attorney or other person of good moral character. Do you desire to be represented by counsel or otherwise at this hearing?

A. Yes, I do want to be represented by counsel. I have been writing to my attorney in Chicago and he may arrange for an attorney here to represent me. I will let the Immigration Office at Kansas City know as soon as arrangements can be made.

Q. You are advised that the hearing will be continued at this time but you will be expected to advise the District Director of Immigration and Naturalization at Kansas City, Missouri of such arrangements as you have been able to make for an attorney to represent you at the earliest possible time and, in any event, within the next thirty days. Do you think you can do that?

A. I will do the best I can.

Hearing Continued.

I hereby certify that the foregoing is a true and correct record of the proceedings at the warrant hearing in the case of Sam DeGeorge.

/s/ C. W. Young,  
*Immigrant Inspector.*

I hereby certify that the foregoing is a true and correct copy of the record as dictated to me by C. W. Young from his long-hand notes.

/s/ Ada P. Hervey,  
*Clerk.*

15

U. S. DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Chicago, Illinois

Chicago Office File 4136/193  
Kansas City Office File 1100/7736  
Central Office File 56090/201

-Report of Continued Hearing held in Room 990, New Post Office Building, Chicago, Illinois, September 14, 1943.

Present:

E. W. Krause—Presiding Inspector.  
J. S. Epstein—Stenotypist.  
Sam DeGeorge—Respondent.  
Harry P. Gabel—Counsel for Respondent.

Presiding Inspector to Respondent:

Q. Do you speak and understand the English language?

A. Yes.

Q. What is your full and true name?

A. Salvatore Di Giorgio.



Q. Have you ever used or been known by any name other than Salvatore Di Giorgio?

A. I am known under the name of Sam De George.

Q. Have you used any other names besides the one mentioned?

A. Not that I remember.

Q. Are you one and the same Salvatore Di Giorgio or Sam De George who was accorded a hearing on May 7, 1942 at the United States Penitentiary, Leavenworth, Kansas?

A. Yes.

Q. At that time, you expressed the desire to be represented by counsel. Have you secured counsel at this time?

A. Yes, Mr. Harry P. Gabel will represent me at this hearing.

Presiding Inspector to Counsel for Respondent:-

Q. Will you please state your name and address for the record?

A. Harry P. Gabel, 30 North LaSalle Street, Chicago, Illinois; attorney at law.

Q. Have you filed your appearance in this case?

A. Yes.

16 Q. Are you ready to proceed with this hearing?

A. Yes.

Presiding Inspector to Respondent:

Q. Are you ready to proceed with this continued hearing?

A. Yes.

Q. Will you please stand and raise your right hand. Do you solemnly swear that the statements you are about to make in this proceeding will be the truth, the whole truth and nothing but the truth, so help you God?

A. Yes.

You are informed that if you wilfully and knowingly give false testimony at this proceeding, you may be prosecuted for perjury, the penalty for which is imprisonment for not more than five years, or a fine of not more than \$2,000, or both such fine and imprisonment.

Q. Do you understand?

A. Yes.

Q. When were you released from the United States Penitentiary in Leavenworth, Kansas?

A. The 18th day of January, 1943.

Q. After your release from prison, how were you released by this Service under the Warrant of Arrest?

- A. I was released on a thousand dollar bond.
- Q. Who furnished your bond?
- A. Anthony Perry.
- Q. Is Mr. Perry related to you?
- A. No, sir.
- Q. When you appeared at the hearing before an inspector of this Service at the United States Penitentiary in Leavenworth, Kansas on May 7, 1942, you stated that your full and true name was Sam De George. Is that true?
- A. My true name is Salvatore Di Giorgio.
- Q. When were you born?
- A. November 25, 1904.
- Q. Where were you born?
- A. In Peoppo, in the Province of Palermo, Italy.
- 17 Q. Of what country are you now a citizen?
- A. Italy.
- Q. Have you a passport, birth certificate or any documentary evidence relative to your citizenship?
- A. I had a passport but I lost it.
- Q. What is your father's name?
- A. Gaetano De George.
- Q. Where is your father now residing?
- A. Peoppo, Italy when I last heard of him. That was about three years ago.
- Q. Where was your father born?
- A. In Italy.
- Q. Of what country is he a citizen?
- A. He is a citizen of Italy.
- Q. What is your mother's maiden name?
- A. Annie Anello.
- Q. Where was your mother born?
- A. She was born there, too, Italy.
- Q. Where is your mother now residing?
- A. Peoppo, Italy, as far as I know.
- Q. Of what country is your mother a citizen?
- A. Italy.
- Q. Has your father or mother ever resided in the United States?
- A. My dad did, yes.
- Q. When did your father reside in the United States?
- A. I'm not sure, it was a long time ago, probably thirty or thirty-five years ago.
- Q. Do you know whether your father became a citizen of the United States?

A. Not that I know.

Q. Have you any other relatives in Italy besides your parents?

A. Yes, I have one brother, Mateo De George and he was residing in Peoppo, Italy the last I heard of him. I have three sisters, Maria, Theresa and Margareta. They may be married now, I do not know their married names nor do I know where they are residing at the present time.

Q. Have you any relatives in the United States?

A. Yes, I have an uncle, Frank Anello and he is living in Brooklyn, New York. I think the address is 1522  
18 Gates Avenue and I also have an uncle in Gary, Indiana, John Anello. I don't remember his address.

Q. Are you married?

A. No.

Q. Have you ever been married?

A. Yes.

Q. What was your wife's maiden name?

A. Ellen Fragelle.

Q. When were you married?

A. June 10, 1928, in Harvey, Illinois.

Q. How did this marriage terminate?

A. By divorce.

Q. When were you divorced?

A. My wife secured a divorce while I was in the United States Penitentiary in Leavenworth, and that was during 1940.

Q. Were there any children by that marriage?

A. Yes, there was one child, his name is Sam De George, Jr. He is now ten and one half years old and he was born in Harvey, Illinois.

Q. What is your religious belief?

A. Roman Catholic.

Q. Where were you baptized?

A. In Peoppo, Italy during infancy.

Q. What are the names of churches you have attended in your native country, if any?

A. Roman Catholic Church in Peoppo.

Q. What are the names and locations of schools you have attended in your native country?

A. I went to public school in Peoppo.

Q. What was your last place of residence in Italy?

A. Peoppo, Italy.

Q. When did you leave that address?

A. April 6, 1921.



Q. Where did you go after you left your native country?

A. I came to the United States.

Q. What was the port of embarkation?

A. Naples, Italy.

19 Q. Have you ever lived in any countries other than Italy and the United States?

A. No.

Q. How many entries have you made into the United States?

A. One.

Q. When did you enter the United States?

A. I entered the United States April 25, 1921.

Q. Where did you enter the United States?

A. New York, New York.

Q. What is the name of the ship on which you entered the United States?

A. Re D'Italia.

Q. By whom were you accompanied at the time of your entry?

A. By my aunt, Anna Anello, and she brought her children with her.

Q. Were you inspected by a United States Immigration Officer at the time of your entry?

A. Yes.

Q. Did you pay a head tax?

A. I suppose I did, I don't remember, but I suppose I did.

Q. How old were you at the time of entry?

A. Seventeen.

I will now show you Government Form I-404, which is a Certificate of Admission of Alien issued at the port of New York, New York September 29, 1941, relative to the arrival of one Salvatore Di Giorgio on April 25, 1921 at the above named port on the SS Re D'Italia.

By Presiding Inspector: Let the Record indicate that the respondent and counsel are presented with the aforementioned document for examination.  
Presiding Inspector to Respondent:

Q. Does this Certificate relate to you and are the statements made therein correct to the best of your knowledge?

A. Yes, with the exception that they forgot to put my aunt's last name, Anello, only giving her maiden name.

20 You are informed that a copy of this document will now be made part of the record and identified as Exhibit 2.

Q. Do you understand?

A. Yes.

Q. Were you ever refused admission to the United States?

A. No.

Q. Were you ever debarred or deported from the United States?

A. No.

Q. Were you ever arrested in Italy?

A. No.

Q. How many times have you been arrested in the United States?

A. I was first arrested in 1924 in Hammond, Indiana for transporting liquor. I don't know the length of the sentence imposed but I think it was between one and two years. I served seven months of my sentence in the Pendleton Reformatory.

I was arrested again in 1926 in Harvey, Illinois for investigation. I was dismissed the following day.

I was again arrested in 1928 in Harvey, Illinois for investigation purposes, and was dismissed the following day.

In 1931 I was arrested in Jackson, Michigan for transferring license plates and paid a thirty dollar fine in South Marshall, Michigan. Then I was arrested again in 1938.

In May, 1938, in Gary, Indiana, I was arrested for conspiracy to violate the liquor laws and was taken to Dayton, Ohio, for trial and I pled guilty and I was sentenced by the Court to a year and a day to Atlanta, Georgia. When I was about to be released from Atlanta, Georgia, a detainer was placed against me and I was taken to Fort Wayne, Indiana. I was tried by Judge Slick in the Federal Court in Hammond, Indiana and was given ninety days at Midland, Michigan for liquor violation. While I was serving a sentence at Midland, Michigan, a detainer was placed against me by United States Government from South Bend, Indiana and after my dismissal from Midland, Michigan, I was arrested by the United States Marshal and taken to South Bend. Later on, I was tried at South Bend, Indiana for conspiracy to violate the liquor laws, I was sentenced by the Court on plea of not guilty to two years at Fort Leavenworth, Kansas.

I now show you certified copies of the Indictment

with attached certified copy of judgment and commitment, case #1476, United States vs. Sam De George, disclosing that one Sam De George was indicted for the crime of conspiracy to violate the Internal Revenue laws of the United States, committed during the months of February, March and April, 1937. The judgment and commitment further discloses that one Sam De George, in case #1476, was convicted on his plea of guilty on the offense charged in the indictment and committed to a penitentiary for a period of one year and one day.

By Presiding Inspector: Let the record indicate that the respondent and counsel are presented with the aforementioned documents for examination.

Presiding Inspector to Respondent:

Q. Do these documents relate to you and the offense committed by you?

A. It does, yes.

You are informed that these documents will now be made part of the record and identified as Exhibit 3.

Q. Do you understand?

A. Yes.

Q. To what penal institution were you committed for this offense?

A. Atlanta, Georgia.

Q. How long did you serve in that institution?

A. I served nine months and eighteen days.

I further show you certified copies of the Indictment, judgment and commitment, case #1105, United States vs. Sam De George, disclosing that one Sam De George was indicted for the crime of conspiracy to violate the Internal Revenue laws of the United States committed during the months of July, August and September, 1939. The judgment and commitment further discloses that Sam De George in case #1105 was convicted on a finding of guilty for the offense of Internal Revenue Conspiracy and sentenced to a term of two years to a penitentiary, the type to be designated by the Attorney General or his authorized representatives.

By Presiding Inspector: Let the record indicate that the respondent and his counsel are presented with the aforementioned documents for examination.

Presiding Inspector to Respondent:

Q. Do these documents relate to you and the offense committed by you?



A. Yes.

You are informed that a copy of this document will now be made part of the record and identified as Exhibit 4.

22 Q. Do you understand?

A. Yes.

Q. In what penal institution did you serve for the offense mentioned in Exhibit 4?

A. Fort Leavenworth, Kansas.

Q. How long did you serve in that institution?

A. Nineteen months and eighteen days.

Q. Is this your entire criminal record?

A. Yes.

Q. Do you wish to make any statements at this time or present any evidence or witnesses to show cause why you should not be deported from this country?

A. When I came to the United States I was seventeen years old and I came to the United States to make it my permanent home. I have never left the United States at any time and I intend to stay in the United States if they let me. I have never committed any crime of violence, I have always been employed.

In 1928 I married an American citizen, Ellen Fragelle, and I thought that made me a citizen of the United States. I lived with her, had two children, one died, that was when he was four years old and I have one at the present time. He is ten and a half years old. During the time that I was serving on my sentence, my wife became ill and she decided to get a divorce. We were married in 1928 up to 1940. I am still supporting the child without any orders from the court. I love my child and I don't want my child to be separated from me or feel that his father was anything but a loyal person to the United States of America. I also want to be near my child.

I also registered under every act as requested by the Government and I have no sympathy or feeling toward my mother country. I went to my local draft board and volunteered for service in the United States military forces. They refused to accept me on account of my age, thirty eight years of age. I am willing to join the forces of the United States at this time or at any time and serve in any way and in any place where they might want me to. I realize that I made a mistake in doing the things that I did although I would never commit any crime of violence to any one. I have learned my lesson and it has been a

bitter one and if I am given an opportunity I will always obey the laws of the United States and all other laws of the locality where I may live. I am engaged in a lawful business at the present time and I am going to continue in this manner the rest of my life.

23 Presiding Inspector to Respondent:

Q. Did you register under the Alien Registration and Selective Service Acts?

A. Yes.

By Presiding Inspector: Presents Alien Registration Receipt Card #3767294 issued to Sam De George, 15529 Halsted Street, Harvey, Illinois.

Further presents Selective Service Registration Certificate disclosing that one Sam De George was duly registered on October 16, 1940 at Local Board #12, Lansing, Illinois. (Documents returned.)

Presiding Inspector to Respondent:

Q. You stated previously that you have one living child by a former marriage. Are you supporting this child at the present time?

A. Yes.

Q. Have you always supported that child with the exception when you served time in the penal institutions for the offenses committed by you?

A. Yes.

Q. How much do you contribute toward your child?

A. About forty dollars a month.

Q. Were you required by court order to pay toward the upkeep of your child?

A. No, it is voluntary, I do it of my own free will.

Q. Are you employed at the present time?

A. Yes.

Q. By whom are you employed?

A. By Louis Geoncode, it is a tavern and a restaurant located at 15410 Park Avenue, Harvey, Illinois.

Q. In what capacity are you employed?

A. As chief bartender.

Q. What is your weekly income?

A. Forty dollars a week.

Q. Do you own any property?

A. No.

Q. Have you any other sources of income besides your regular wages?

A. No, sir.

24 Q. Have you any money in the bank?

A. No.

Q. Do you own any stocks or bonds?

A. No.

Q. Does any one owe you money?

A. No.

Q. Do you owe money to any one?

A. No.

Q. Are you in good health, physically and mentally?

A. Yes.

Q. In the event you are ordered deported, to whom do you wish to go?

A. To my parents in Peoppo, Italy.

Q. Do you have any baggage or other personal belongings you wish to take with you?

A. Yes, personal belongings, trunk and suitcase.

Presiding Inspector to Counsel for Respondent:

Q. Do you wish to question the respondent?

A. Yes.

Counsel to Respondent:

Q. Mr. De George, you have been referred to in this matter as Salvatore Di Giorgio?

A. Yes.

Q. That was the name that was given you in Italy; is that correct?

A. Yes.

Q. As a boy?

A. Yes.

Q. After your arrival in the United States, did you ever assume or use that name, Salvatore Di Giorgio?

A. No, sir.

Q. You have always been known by Sam De George?

A. Yes.

Q. And you were married under what name?

A. Sam De George.

Q. And your child is known by what name?

A. Sam De George, Jr.

25 Q. Now, you have with you two letters, one from the Chief of Police at Harvey, Illinois, written by Sgt. George Kaur, regarding yourself and another letter written by Mr. Athens who is a real estate man. Do you wish to give these letters to the Inspector?



A. Yes.

By Counsel: Mr. Inspector, I am now handing you two letters relating to the respondent and ask that they be made part of the record.

By Presiding Inspector: The letters referred to will now be made part of the record and identified as Exhibits 5 and 6 respectively.

Presiding Inspector to Counsel for Respondent:

You are informed that you will be furnished with a copy of the Findings, Conclusion of Law and Proposed Order as soon as completed and you will be allowed ten days in which to file exceptions thereto in writing.

Q. Do you understand?

A. Yes.

Presiding Inspector to Respondent:

You are informed that under the Act of March 4, 1929 as amended, you will, if ordered deported and thereafter enter or attempt to enter the United States be guilty of a felony and upon conviction be liable to imprisonment for not more than two years or a fine of not more than \$1,000, or both such fine and imprisonment unless following your departure from the United States in pursuance of an order of deportation, you receive permission from the Attorney General of the United States to apply for admission after one year from date of such departure.

Q. Do you understand?

A. Yes.

Continued Hearing Closed.

Description:

Height, 5' 7".

Weight, 165 lbs.

Hair, Dark Brown.

Eyes, Blue.

No Visible Marks of Identification.

I, the undersigned, certify that the foregoing typewritten pages 3-13 inclusive is a full, true and accurate transcript of the Stenotype notes taken in this case by me at Chicago, Illinois, September 14, 1943.

J. S. Epstein,  
Stenotypist.

24

*Exhibit 1.*

26

*Exhibit 1.*

**UNITED STATES OF AMERICA**

**DEPARTMENT OF JUSTICE**

**Washington**

**Warrant**

**For Arrest of Alien**

No. 1100/7736

No. 56090/201

To District Director of Immigration and Naturalization,  
Kansas City, Mo., or to any Immigrant Inspector in the  
service of the United States.

Whereas, from evidence submitted to me, it appears that the alien, Sam DeGeorge, who entered this country on the 25th day of April, 1921, at New York, N. Y., ex SS "Re D'Italia" has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit:

The act of 1917, in that he has been sentenced, subsequent to May 1, 1917, to imprisonment more than once for a term of one year or more for the commission subsequent to entry of a crime involving moral turpitude, to wit: Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy).

I, by virtue of the power and authority vested in me by the laws of the United States, hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation "Salaries and Expenses, Immigration and Naturalization Service, 1942."

(Seal)

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 10th day of October, 1941.

/s/ W. W. Brown,

*Chief, Warrant Branch.*

js

27

## Exhibit 2.

## Certificate of Admission of Alien.

This Form Is Insufficient As A Basis For A Petition For  
Naturalization.

59598/717

(1100/7736)

Port of New York, N. Y.

Date September 29, 1941

District Director

Immigration and Naturalization Service

Kansas City, Missouri

I Hereby Certify that the following is a correct record  
and statement of facts relative to the admission to the  
United States of the alien named below:

- (1) Manifest No., 6761; Class, III, Naples;
- (2) S. S., Re D'Italia; Line, Lloyd Cabando;
- (3) Port at which admitted, New York, N. Y.; Date,  
4/25/21;
- (4) Name, Di Giorgio, Salvatore; Age, 17; Sex, male;
- (5) Married, single; Occupation, constr.; Able to read,  
yes; Write, yes;
- (6) Citizen of, Italy; Race, South;
- (7) Place of birth, Ponreale, Palermo;
- (8) a. Class of immigration ...;  
visa, ...; No. ...; Issued at ...; Date, ...;  
b. Transit Certificate No. ...; Issued at ...; Date, ...;
- (9) Last permanent residence, Pontreale, Palermo;
- (10) Name and complete address of nearest relative or  
friend, in country whence alien came, father: Gaetano  
Di Giorgio;
- (11) Destination, Brooklyn, New York; By whom passage  
paid, self; Money brought, \$2;
- (12) Whether in U. S. before, no; When, ...; Where, ...;
- (13) Whether going to relative or friend, Uncle; Give  
name and complete address: Giacomo Anello, 1522 Gates  
Ave., Brooklyn, New York;
- (14) Purpose of coming to U. S., Permanent; Intended  
length of stay, ...;
- (15) Condition of health, good;

## Exhibit 3.

- (16) Height, 5'3"; Complexion, rasy; Color of hair, brown;
- (17) Color of eyes, brown; Identification marks. ....;
- (18) Examined by Inspector Macatee;
- (19) Accompanied by Anna Barrito, female, age 32  
Mattes Anello, M. 8 Margherita Anello, F. 6 Gaspere, Anello, M. 2 Concetta Anello, F. 2; How admitted, Primary;
- (20) Remarks: Head tax paid.

(Signature) /s/ Byron R. Uhl,  
(Official title) District Director,  
New York District.

## Exhibit 3.

## DISTRICT COURT OF THE UNITED STATES.

Southern District, Ohio, Western Division,

Dayton, Ohio.

United States	} No. 1476 Criminal Indictment
<i>v.s.</i>	
Sam DeGeorge, <i>et al.</i>	} in One counts for violation of
	} U. S. C., Title 18, Secs. 88

## JUDGMENT AND COMMITMENT.

On this 27th day of May, 1938, came the United States Attorney, and the defendant Sam DeGeorge appearing in proper person and .....

The defendant having been convicted on his plea of Guilty of the offense charged in the indictment in the above-entitled cause, to wit:

Conspiracy to violate Internal Revenue Laws of the United States, (Liquor)

and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is By The Court

Ordered And Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the Penitentiary type to be designated by the Attorney General or his authorized representative for the period of One (1) Year and One (1) Day.



and that said defendant be further imprisoned until payment of said fine, or fine and costs, or until said defendant is otherwise discharged as provided by law.

It Is Further Ordered that

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

O. K. (Signed) Francis C. Canny,  
U. S. Attorney.

(Signed) (Signed) Nevin,  
United States District Judge.

A True Copy. Certified this 27th day of May, 1938.

(Signed) (Signed) Harry F. Rabe,  
Clerk.

(By) (Signed) F. H. Rickett,  
Deputy Clerk.

29

Criminal  
No. 1476

IN THE DISTRICT COURT OF THE  
UNITED STATES OF AMERICA

For the Southern District of Ohio,  
Western Division.

Southern District of Ohio, } ss:  
Western Division.

Of the May Term in the year nineteen hundred  
and thirty-seven.

First Court:

Section 88,  
Title 18,  
United States Code.

The Grand Jurors of the United States of America, empaneled and sworn in the District Court of the United States for the Western Division of the Southern Judicial District of Ohio, at the May Term thereof, in the year nineteen hundred and thirty-seven, and inquiring for that

division and district, upon their oaths and affirmations present:

That Roy W. Allender, Ray L. Boyer, Pasquale Caruso, Sam DeGeorge, Tony Genna, Nick Giordano, Harry R. King, Walter W. Lee, Jr., and George R. Mosier, hereinafter referred to as defendants, and divers other persons to these Grand Jurors, from on or about, to wit, the nineteenth day of November, in the year nineteen hundred and thirty-six and thence continuously to and including the second day of May in the year nineteen hundred and thirty-seven, in the Counties of Clark, Greene and Montgomery, in the State of Ohio, in the Western Division of the Southern Judicial District of Ohio, and within the jurisdiction of this Court, unlawfully, knowingly, wilfully and feloniously did conspire, combine, confederate and agree together, each with the other, and with divers other persons to these Grand Jurors unknown, to commit divers offenses against the Internal Revenue Laws of the United States, to-wit: to violate Sections 1152(a), 1155(f), 1162, 1163, 1164, 1165, 1170, 1182, 1287, 1397(a), 1440, and 1441

of Title 26, United States Code Annotated, that is to say, the said defendants and co-conspirators, did conspire, combine, confederate and agree together, each with the other and with divers other persons to these Grand Jurors unknown;

to possess and transport spirituous liquors, to-wit, whiskey and alcohol, with having affixed to the containers of said spirituous liquors the Internal Revenue stamps denoting the quantity thereof and payment of the taxes thereon;

to carry on the business of distillers and to defraud the United States of the tax on the liquors distilled by them;

to have in their possession, control and custody stills and distilling apparatus, set up, without registering the same as required by law;

to neglect and refuse to give the required notice of their intention to engage in the business of distilling liquors;

to neglect and refuse to give the required notice of their intention to engage in the business of rectifying liquors;

to carry on the business of distillers without giving the required bond;

to carry on the business of distilling liquors in buildings other than authorized distilleries;

to operate distilleries and rectifying plants without displaying the required signs on the premises;

to unlawfully remove and conceal spirituous liquors, to wit, whiskey and alcohol;

to carry on the business of rectifiers of spirituous liquors, to wit, whiskey and alcohol, without having paid the special statutory tax;

to possess spirituous liquors, to wit, whiskey and alcohol; with intent to sell it in fraud of law and evade the tax thereon;

to remove and conceal distilled spirits, to wit, whiskey and alcohol, with intent to defraud the United States of the tax thereon.

#### Overt Acts.

And the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do say that in furtherance of said unlawful agreement, combination and conspiracy, and 31. for the purpose of accomplishing said unlawful purposes as hereinbefore charged, the said defendants, at the time and places hereinafter set forth, did commit the following overt acts, to-wit:

1. That the defendants, Sam De George and Pasquale Caruso directed the manufacture of illicit spirituous liquors, to wit, whiskey and alcohol, in a distillery in the basement of the dwelling house occupied by Walter S. Lee, Jr., defendant herein, in Greene County, Ohio, during the months of February, March and April, 1937;

2. That on or about February 1, 1937, the defendant, Walter S. Lee, Jr., rented the basement of his dwelling house in Greene County, Ohio, to the defendants, Sam DeGeorge, and the defendant, Walter S. Lee, Jr., accepted payment of the rent for a period of three months from said defendant, Sam DeGeorge.

3. That on or about November 19, 1936, the defendants, Ray L. Boyer and Harry R. King, rented a cottage at Crystal Lake New Carlisle, Clarke County, Ohio, and from said 19th day of November, 1936, until the first day of May, 1937, in and at said cottage possessed, stored and concealed large quantities of spirituous liquors, to wit, whiskey and alcohol, in containers to which Internal Revenue stamps denoting the quantity thereof and the payment of the taxes thereon had not been affixed.

4. That on or about February 1, 1937, the defendants, Pasquale Caruso and Tony Genna, went to the Lee farm in Greene County, Ohio, and began work on the part of

the premises rented of Walter S. Lee, Jr., fitting it for a still site and setting up a still.

4. That on or about February 1, 1937, the defendant, Pasquale Caruso, rented farm buildings, or space in farm buildings, on land of Lida M. Brewer in Greene County, Ohio; paid Lida M. Brewer the sum of fifteen dollars as one month's rent and used the said farm buildings to house or harbor men who worked at the defendant's illicit distilleries and for the storage of materials used in said illicit distilleries of the defendants.

6. That on or about April 9, 1937, the defendants, 32 Nick Giordano and Tony Genna, operated the distillery in the basement of the house of Walter S. Lee, Jr., in Greene County, Ohio.

7. That on or about March 1, 1937, the defendants, Roy W. Allender and Harry R. King, attempted to rent and enter into negotiations with the defendant, George R. Mosier, for the rental of farm in Bethel Township, Clarke County, Ohio, for use as a still site and for storing and concealing illicit spirituous liquors, to wit, whiskey and alcohol.

8. That on or about April 2, 1937, defendant George Mosier rented the defendant Roy W. Allender the granary on his farm in Bethel Township, Clarke County, Ohio, which granary the defendants herein used for the storage, concealment and possession of illicit spirituous liquors, to wit, whiskey and alcohol.

9. That on or about February 1, 1937, defendant Roy W. Allender attempted to rent the farm premises of C. H. Burchan, stating to said Burchan that the building was desired by two men who were accompanying him, who wanted to store some liquor.

10. That on or about February 16, 17 and 18, 1937, the defendants, Pasquale Caruso and Tony Genner, constructed and set up a still in the basement of the home of Walter S. Lee, Jr., in Greene County, Ohio.

11. That on or about February 20, 1937, defendants, Harry R. King and Ray L. Boyer, stored in the cottage at Crystal Lake, Clarke County, Ohio, rented to them, ten 100-lb. bags of sugar that were used in the manufacture of illicit spirituous liquors, to wit, whiskey and alcohol.

12. That on March 13, 1937, the defendant Harry R. King, purchased a 1937 model, Ford Coupe, motor No. 18-



3709533, from Transportation Twins, Inc., of Dayton, Ohio; secured 1937 Ohio license 459 Q. G. for said car and used it in trips in and out of the rectifying plant in the basement of the cottage at Crystal Lake, New Carlisle, Ohio, and in transporting filled 5-gallon cans from the granary rented from the defendant, George R. Mosier.

13. That on March 15, 1937, the defendant, Ray L. Boyer, had in his possession an electric motor and shaft at Midway, Ohio, on which he had work done, after which he removed said equipment from Midway, Ohio, to the distillery in the basement of the residence at the home of Walter S. Lee, Jr., in Greene County, Ohio, and used said equipment on said distillery.

14. That on March 26, 1937, the defendant Roy W. Allender hauled twelve loads of cinders to the George R. Mosier Farm in Greene County, Ohio, spreading the same on the farm lane and about the granary which the defendants herein used for the storage of tax-unpaid or illicit liquors, to wit, whiskey and alcohol.

15. That on April 6, 1937, defendant Ray L. Boyer, purchased a 1937 model, Ford coupe, motor No. 18-3799955 from Bryant Motor Sales, Kenia, Ohio, procured Ohio license plates 687 'S. F. for said automobile and used said car for the operating of a rectifying plant in the cottage which he occupied at Crystal Lake, New Carlisle, Clarke County, Ohio.

#### Conclusion.

And so the Grand Jurors aforesaid, upon their oaths and affirmations aforesaid, do say that said defendants, throughout the period of time, and in places, manner and form aforesaid, unlawfully and feloniously did conspire to commit offenses against the United States, and did do acts to effect the objects of the conspiracy;

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the United States of America.

James H. Cleveland,  
*Asst. United States Attorney, S.D.O.*

The following endorsement appears on the back of the original Indictment:

"A true bill,  
James Rogers,  
*Foreman.*

## IN THE DISTRICT COURT OF THE UNITED STATES

For the Northern District of Indiana,

Fort Wayne Division.

December Term, A. D., 1939.

United States of America,

vs.

Matthew Salvatore Anello, alias  
 Mathew Norrito, alias Mathew  
 Bruno, alias Matthew Anello,  
 alias Matthew S. Anello, alias  
 Matthew S. Annello, alias Joe  
 Lorenzo, alias Matt, alias John-  
 nie; Sam DeGeorge, alias Sam  
 DiGeorge, alias Sam Fosso, alias  
 Sam Bello; Ralph C. Glenn, alias  
 Raphael Glenn, alias "R. C.",  
 alias Joe Turner, alias "tex."; }  
Gregory Joseph Griffo, alias }  
 "Gig"; George Juszcyk, alias }  
 Adolph; Joe DeGeorge, alias Joe }  
 DiStefano, alias George DiStefa- }  
 no, alias Joe George, alias }  
 "Joe", alias "George", alias }  
 Joe Termine; Joe Messina, alias }  
 "Joe", alias Mike Faro; Thom- }  
 as Morgano, alias Tommy Mor- }  
 gano, alias Tom Morgano, alias }  
 Thomas Margano; Charles Pan- }  
no, alias "Frankie". }

Criminal No. 1105.

The Grand Jurors of the United States, within and for  
 the Northern District of Indiana, impaneled, sworn and  
 charged in said Court, at the term and division aforesaid,  
 to inquire for the United States for the Northern Dis-  
 trict of Indiana, upon their oaths charge and present  
 35 that: Matthew Salvatore, Anello, alias Mathew Nor-  
 rito, alias Mathew Bruno, alias Matthew Anello, alias  
 Matthew S. Anello, alias Matthew S. Annello, alias Joe

Lorenzo, alias Matt, alias Johnnie; Sam DeGeorge, alias Sam DiGeorge alias Sam Fosso, alias Sam Bello; Ralph C. Glenn, alias Raphael Glenn, alias "R. C.", alias Joe Turner, alias "Tex"; Gregory Joseph Griffo, alias "Gig"; George Juszcyk, alias Adolp; Joe De George, alias Joe DiStefano, alias George DiStefano, alias Joe George, alias "Joe", alias "George", alias Joe Termine; Joe Messina, alias "Joe", alias Mike Faro; Thomas Morgano, alias Tommy Morgano, alias Tom Morgano, alias Thomas Margano; Charles Panno, alias "Frankie" hereinafter called defendants, late of said district, at and in the South Bend Division of said district and within the jurisdiction of this court on or about the 15th day of July, 1939 and thereafter continuously up to and including the date of this indictment, did then and there unlawfully, knowingly, wickedly, corruptly and feloniously conspire, combine, confederate, arrange and agree together and with divers other persons whose names are to the Grand Jurors unknown to violate the Internal Revenue Laws of the United States by the commission of various offenses against the United States of America and the laws thereof, which said offenses were that said defendants and said persons unknown, would then and there and thereafter in the state of Indiana, Illinois, Kentucky and Ohio and within the South Bend Division of the Northern District of Indiana unlawfully, knowingly, and willfully defraud the United

States of tax on distilled spirits, carry on the business  
36 of a retail and wholesale liquor dealer in distilled spirits without having paid the special tax as required by law; remove and aid in the removal of distilled spirits, on which the United States Internal Revenue Tax had not been paid, to a place other than a distillery warehouse or other bonded warehouse provided by law; conceal and aid in the concealment of said spirits so removed; carry on the business of a distiller without having given bond as required by law; possess a still set up which still was not then and there registered as required by law; make mash fit for distillation or for the production of distilled spirits on premises other than a distillery duly authorized according to law; and possess and transport distilled spirits, to-wit: Four Thousand Six Hundred Seventy-Five (4,675) gallons of alcohol and other quantities of distilled spirits, the exact amount being to the Grand Jurors unknown, the immediate containers of which distilled spirits did not then and there have affixed thereto stamps de-

noting the quantity of distilled spirits contained therein and evidencing payment of all Internal Revenue Taxes imposed on said spirits as required by law.

And the Grand Jurors aforesaid further present and charge that in furtherance of said conspiracy, as aforesaid, and to effect the object thereof and within the venue aforesaid, the following named defendants did and performed the following overt acts:

(1) On or about the 1st day of September, 1939 in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana defendant Sam DeGeorge, alias Sam DiGeorge, alias Sam Fosso, alias Sam Bello did then and there have a conversation with defendants Gregory Joseph Griffo, alias "Gig" and Matthew Salvatore Anello, alias Mathew Norrito, alias Mathew Bruno, alias Matthew Anello, alias Matthew S. Anello, alias Matthew S. Annello, alias Joe Lorenzo, alias Matt, alias Johnnie wherein he, the said defendant Sam DeGeorge, alias Sam DiGeorge, alias Sam Fosso, alias Sam Bello directed the said defendants Gregory Joseph Griffo, alias "Gig" and Matthew Salvatore Anello, alias Mathew Norrito, alias Mathew Bruno, alias Matthew Anello, alias Matthew S. Anello, alias Matthew S. Annello, alias Joe Lorenzo, alias Matt, alias Johnnie to transport a certain quantity of alcohol, to-wit: Three Hundred Twenty-Five (325) gallons, the immediate containers of which alcohol did not then and there have affixed thereto stamps denoting the quantity of distilled spirits contained therein and evidencing payment of all Internal Revenue Taxes imposed on said spirits as required by law.

(2) On or about the 3rd day of September, 1939 in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Sam DeGeorge, alias Sam DiGeorge, alias Sam Fosso, alias Sam Bello had a telephone conversation with defendant Gregory Joseph Griffo, alias "Gig" at Covington, Kentucky.

(3) On or about the 16th day of July, 1939, the defendant Charles Panno, alias "Frankie" in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, did then and there perform manual labor on a certain still, being then and there erected on the farm premises owned by defendant George Juszcyk.

(4) On or about the 16th day of July, 1939, in the



County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana defendants Matthew Salvatore Anello, alias Matthew Norrito, alias Mathew Bruno, alias Matthew Anello, alias Matthew S. Anello, alias Matthew S. Anello, alias Joe Lorenzo, alias Matt, alias Johnnie and Joe DeGeorge, alias Joe DiStefano, alias George DiStefano, alias Joe George, alias "Joe", alias "George", alias Joe Termine and Charles Panno, alias "Frankie" within the said Starke County, State of Indiana, did then and there transport certain vats, pipes, a boiler, and a column to be used in a still, the exact description of said vats, pipes, boiler, and column being to the Grand Jurors unknown.

(5) On or about the 1st day of September, 1939 in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana defendant Matthew Salvatore Anello, alias Mathew Norrito, alias Mathew Bruno, alias Matthew Anello, alias Matthew S. Anello, alias Matthew S. Anello, alias Joe Lorenzo, alias Matt, alias Johnnie possessed and transported in a certain automobile, to-wit: a Ford Truck, Three Hundred and Twenty Five (325) gallons of alcohol, the immediate containers of which alcohol did not then and there have affixed thereto stamps denoting the quantity of distilled spirits contained therein and evidencing payment of all Internal Revenue Taxes imposed on said spirits as required by law.

(6) On or about the 20th day of August, 1939 in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Thomas Morgano, alias Tommy Morgano, alias  
38 Tom Morgano, alias Thomas Margano had a conversation with defendant Gregory Joseph Griffo, alias "Gig" concerning the employment of defendant Gregory Joseph Griffo, alias "Gig" by the said defendant Thomas Morgano, alias Tommy Morgano, alias Tom Morgano, alias Thomas Margano.

(7) On or about the 15th day of July, 1939, in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Joe DeGeorge, alias Joe DiStefano, alias George DiStefano alias Joe George, alias "Joe", alias "George", alias Joe Termine paid George Juszczuk, alias Adolph, the sum of Fifty and 00/100 (\$50.00) Dollars.

(8) On or about the 15th day of August, 1939, in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Joe DeGeorge, alias Joe Di Stefano, alias George DiStefano, alias Joe George, alias "Joe", alias "George", alias Joe Termine transported by automobile a certain quantity of sugar, to-wit: One Hundred Fifty (150) bags to the farm premises owned by George Juszcyk, alias Adolph within the said County of Starke, State of Indiana.

(9) On or about the 10th day of October, 1939, in the county of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Ralph C. Glenn, alias Raphael Glenn, alias "R. C.", alias Joe Turner, alias "Téx", possessed and transported by automobile One Hundred Fifty (150) gallons of alcohol, the immediate containers of which alcohol did not then and there have affixed thereto stamps denoting the quantity of distilled spirits contained therein and evidencing payment of all Internal Revenue Taxes imposed on said spirits as required by law.

(10) On or about the 10th day of October, 1939, in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Joe Messina, alias "Joe", alias Mike Faro did then and there operate a certain still set up which said still was not then and there registered as required by law and which said still was then and there set up on the farm premises owned by the said George Juszcyk, alias Adolph and located in the said county of Starke, State of Indiana.

39 (11) On or about the 10th day of October, 1939, in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Gregory Joseph Griffo, alias "Gig" possessed and transported by a truck a certain quantity of distilled spirits, to wit, One Hundred Fifty and 00/100 (150) gallons of alcohol, the immediate containers of which alcohol did not then and there have affixed thereto stamps denoting the quantity of distilled spirits contained therein and evidencing payment of all Internal Revenue taxes imposed on said spirits as required by law.

(12) On or about the 15th day of October, 1939, in the County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant George Juszcyk, alias Adolph did then and there mix

certain mash fit for distillation, the exact amount being unknown to the Grand Jurors, which mash was then and there on the farm owned by the said defendant George Juszczyk, alias Adolph and located within the County of Starke, State of Indiana.

(13) On or about the 24th day of August, 1939 at and in the town of North Judson, County of Starke, State of Indiana, and within the South Bend Division of the Northern District of Indiana, defendant Thomas Morgano, alias Tommy Morgano, alias Tom Morgano, alias Thomas Morgano paid the sum of Seventy-Five and 00/100 (\$75.00) dollars to one Joseph J. Vessely for the purchase of a certain 1931 Model A Ford Sedan Automobile.

Contrary to the form of the statute, in such cases made and provided and against the peace and dignity of the United States of America.

James R. Fleming,  
*United States Attorney.*

40 Certified Copy.

United States of America, }  
Northern District of Indiana. }

I, Margaret Long, Clerk of the United States District Court in and for the Northern District of Indiana, do hereby certify that the annexed and foregoing is a true and full copy of the original Judgment And Commitment; In The Matter of: United States vs. Matthew Salvatore Anello, et al. Criminal No. 1105 now remaining among the records of the said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at South Bend this 8th day of September, A. D. 1941.

Margaret Long,  
*Clerk,*

By (signed) Clinton L. Milliken,  
*Deputy Clerk.*

(Seal)

## DISTRICT COURT OF THE UNITED STATES

Northern District, South Bend,

Indiana Division.

United States

vs.

Matthew Salvatore, Anello, Ralph  
C. Glenn, Sam DeGeorge, Greg-  
ory Joseph Griffo, George Jus-  
zck, Joe DeGeorge, Joe Messino,  
Thomas Morgan.

No. 1105 Criminal In-  
dictment in one (1)  
count for viola-  
tion of U. S. C.  
Title 18, Secs. 88.

## JUDGMENT AND COMMITMENT.

On this 6th day of June, 1941, came the United States Attorney, and the defendant Sam DeGeorge appearing in proper person, and By Counsel and,

The defendant having been convicted on Finding of guilty by court of the offense charged in the Indictment in the above-entitled cause, to wit: Violation of Internal Revenue Code, Section 88, Title 18, Sentenced On One (1) Count, Of Indictment Finding Of Guilty, "Internal Revenue Conspiracy" and the defendant having been now asked whether He has anything to say why judgment should not be pronounced against Him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is By The Court

Ordered And Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the Penitentiary, type to be designated by the Attorney General or his authorized representative for the period of Two (2) Years. Sentence To Begin With Date Of Judgment.

It is Further Ordered that

It is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the same shall serve as the commitment herein.

(Signed) Thos. W. Slick,

*United States District Court.*

A True Copy. Certified this 11th day of June, 1941.

(Signed) Margaret Long,

*Clerk,*

(By) Mary Sweeney,

*Deputy Clerk.*

6-11-41 Alex Campbell,

*U. S. Attorney.*



United States	}	No. 1105 Criminal Indictment
<i>vs.</i>		One (1) count for violation of
Sam DeGeorge.		U. S. C., Title 18, Sec. 88.

## Return.

I have executed the within Judgment and Commitment as follows:

Defendant delivered on June 6, to St. Joseph County.

Defendant noted appeal on ..... and released (date) .....

Defendant's appeal determined on (date) .....

Defendant surrendered on (date) .....

Defendant delivered on June 13, to U. S. Penitentiary at Leavenworth, Kansas, the institution designated by the Attorney General, together with certified copy of the within Judgment and Commitment.

Al. W. Hosinski,

*Marshal,*

By Charles F. Banff,  
*Deputy Marshal.*

## 42 Certified Copy.

United States of America, }  
Northern District of Indiana. } ss.

I, Margaret Long, Clerk of the United States District Court in and for the Northern District of Indiana, do hereby certify ~~that the~~ annexed and foregoing is a true and full copy of the original Indictment; in the Matter of: United States *vs.* Matthew Salvatore Anello, etc. et al. Criminal No. 1105, now remaining among the records of the said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at South Bend this 9th day of September, A. D. 1941.

Margaret Long,

*Clerk,*

(Seal)

By (signed) Clinton L. Milliken,  
*Deputy Clerk.*

40

*Exhibits 5 and 6.*

43

**Exhibit 5.**

**City of Harvey,  
Incorporated 1891.**

**August 2, 1943,  
Harvey, Illinois.**

To whom it may concern. This is to certify that bearer  
Sam De George has no record on file in this office.

Chief /s/ Albert Roll,  
Harvey Police Dept.  
Per Sgt. George Kaur.

copy.

44

**Exhibit 6.**

**Treen Agency  
Realtors  
Real Estate  
Building Loans Sales  
Management**

**Phone  
Harvey 222  
192 East 154th  
Harvey, Illinois**

**To Whom It May Concern.**

Sam De George has resided in Harvey, Illinois for the  
past 20 years, which time I have known him.

I have known him to always be a good citizen with the  
exception that during the probation days he became mixed  
with bad company and violated the liquor law. Outside of  
that I know nothing against him. He is a hard working  
man and believe him to be a good citizen. I recommend him.

/s/ P. R. Athens.

**Serving Harvey's 18,000 People for 18 Years.**

45

Exhibit C.

UNITED STATES OF AMERICA

DEPARTMENT OF JUSTICE

Philadelphia, Pa.

Warrant—Deportation of Alien.

4136/193

No. 56090/201

To: District Director of Immigration and Naturalization, Chicago, Illinois

Or to any Officer or Employee of the United States Immigration and Naturalization Service.

Whereas, after due hearing before an authorized immigrant inspector, and upon the basis thereof, an order has been duly made that the alien Salvatore DiGiorgio alias Sam De George who entered the United States at New York, New York, ex SS "Re D'Italia" on the 25th day of April, 1921 is subject to deportation under the following provisions of the laws of the United States to wit: The Act of 1917, in that he has been sentenced, subsequent to May 1, 1917, to imprisonment more than once for a term of one year, or more for the commission subsequent to entry of a crime involving moral turpitude, to wit: Violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy); violation of Internal Revenue Code, Section 88, Title 18 (Conspiracy).

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his direction, do hereby command you to deport the said alien to Italy, at the expenses of the appropriation, "Salaries and Expenses, Immigration and Naturalization Service, 1946," including the expenses of an attendant, if necessary. It is further ordered that execution of the warrant be deferred for a period of six months to allow the alien to apply for a pardon.

For so doing this shall be your sufficient warrant.

Witness my hand and seal this 11th day of January, 1946.

A. R. Mackey,  
Chief Exclusion and Expulsion Section.

46 Department of Justice Immigration And Naturalization No. 56090

No. 201

Docket Card Made.

Endorsed: In the District Court of the United States.  
\* \* (Caption—49-C-406) \* \* For A Writ Of Habeas Corpus.

47 And afterwards, to wit, on the 3rd day of October, 1949, being one of the days of the regular October term of said Court, in the record of proceedings thereof, in said entitled cause, before the Honorable William J. Campbell, District Judge, appears the following entry, to wit:

48 IN THE UNITED STATES DISTRICT COURT.  
\* \* \* (Caption—49-C-406) \* \*

This cause having been heretofore taken under advisement on the petition for a Writ of Habeas Corpus and the Return to the Writ, after due deliberation and the Court being now fully advised in the premises hands down its opinion orally from the bench and in accordance therewith it is

Considered And Ordered that the petition herein for a Writ of Habeas Corpus be and it is hereby dismissed and that the petitioner be and he is hereby remanded to the custody of the respondent.



49 And on the same day, to wit, the 3rd day of October, 1949 came the Relator-Appellant by his attorneys and filed in the Clerk's office of said Court his certain Notice Of Appeal in words and figures following, to wit:

50 IN THE DISTRICT COURT OF THE UNITED STATES,  
Northern District of Illinois,  
Eastern Division.

In the Matter of the Application }  
of Sam DeGeorge for a Writ } No. 49 C 406.  
of Habeas Corpus.

Roy H. Johnson, Clerk U. S. District Court.

NOTICE OF APPEAL.

To:  
Otto Kerner, Jr., United States Attorney, Chicago,  
Illinois;  
Andrew Jordan, District Director, Chicago, Illinois.

Notice Is Hereby Given that Sam DeGeorge, Relator in the above entitled cause, hereby appeals to the United States Court of Appeals for the Seventh Circuit from the Decision of the District Court of the United States, for the Northern District of Illinois, Eastern Division, by the Honorable William J. Campbell of said Court, entered on the 3rd day of October, 1949, wherein the Court held that a conspiracy to violate the Internal Revenue Code involves moral turpitude, and the Court dismissed the Writ of Habeas Corpus.

Thomas F. Dolan,  
Attorney for Appellant.

Received copies of the foregoing Notice of Appeals this  
day of , 1949.

United States Attorney.

District Director.

(Certificate of Mailing Attached Hereto):

51 United States of America, } ss. ✓  
 Northern District of Illinois. }

### CERTIFICATE OF MAILING.

I, Roy H. Johnson, Clerk of the United States District Court in and for the Northern District of Illinois, do hereby certify that on October 3, 1949, in accordance with Rule 73(b) of the Federal Rules of Civil Procedure a copy of the foregoing Notice of Appeal was mailed to

Hon. Otto Kerner, Jr., U. S. Attorney;  
 450 U. S. Court House,  
 Chicago 4, Illinois.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, this 3rd day of October, A. D., 1949.

Roy H. Johnson,

*Clerk,*

By Gizella Butcher,

*Deputy Clerk.*

(Seal)

52 And on the same day, to wit, the 3rd day of October, 1949 came the Appellant by his attorneys and filed in the Clerk's office of said Court his certain Designation Of Short Record in words and figures following, to wit:

53 IN THE DISTRICT COURT OF THE UNITED STATES.  
 \* \* (Caption—49-C-406) \* \*

### DESIGNATION OF SHORT RECORD.

To: Roy Johnson, Clerk United States District Court.

You are requested to include in such transcript of the short record the following papers:

1. Application on Petition for Writ.
2. Opinion of Honorable William J. Campbell.
3. Notice of Appeal.
4. Return of Writ.

Thomas F. Dolan,  
*Attorney for Appellant.*

October 3rd, 1949.

54 United States of America, }  
Northern District of Illinois. } ss:

I, Roy H. Johnson, Clerk of the United States District Court for the Northern District of Illinois, do hereby certify the above and foregoing to be a true and complete short record of the transcript of proceedings had in the cause entitled: In the Matter of the Application of Sam De George, For a Writ of Habeas Corpus; No. 49 C 406, made in accordance with the Designation of Short Record filed in said cause, consisting of true, correct and complete copies of the originals now remaining among the records of the said Court in my office.

In Testimony Whereof, I have hereunto subscribed my name and affixed the seal of the aforesaid Court at Chicago, Illinois, this 3rd day of October, 1949.

Roy H. Johnson,

*Clerk,*

By Gizella Butcher,

*Deputy Clerk.*

(Seal)

UNITED STATES COURT OF APPEALS FOR THE SEVENTH  
CIRCUIT

Chicago 10, Illinois

I, KENNETH J. CARRICK, Clerk of the United States Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing printed pages contain a true copy of the printed transcript of record, filed March 31, 1950, in

Cause No. 10016

U. S. A. EX REL. SAM DE GEORGE

vs.

ANDREW JORDAN, DISTRICT DIRECTOR, ETC.

as the same remains upon the files and records of the United States Court of Appeals for the Seventh Circuit.

In Testimony Whereof I hereunto subscribe my name and affix the seal of said United States Court of Appeals for the Seventh Circuit, at the City of Chicago, this ninth day of September, A. D. 1950.

KENNETH J. CARRICK,  
*Clerk of the United States Court of  
Appeals for the Seventh Circuit,*

By R. HAYS BLANCHARD,

*Chief Deputy Clerk.*

[SEAL.]

At a regular term of the United States Court of Appeals for the Seventh Circuit, held in the City of Chicago and begun on the fifth day of October, in the year of our Lord one thousand, nine hundred and forty-eight, and of our Independence the one hundred seventy-third.

No. 10016

UNITED STATES OF AMERICA, EX REL. SAM DE GEORGE, RELATOR-  
APPELLANT

vs.

ANDREW JORDAN, DISTRICT DIRECTOR OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, CHICAGO, ILLINOIS, RESPONDENT-APPELLEE

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division

And afterward, to-wit, on the tenth day of July, 1950, there was filed in the office of the Clerk of this Court the opinion of the Court, which said opinion is in the words and figures following, to-wit:



IN THE UNITED STATES COURT OF APPEALS FOR THE  
SEVENTH CIRCUIT

OCTOBER TERM, 1949, APRIL SESSION, 1950

No. 10016

UNITED STATES OF AMERICA, EX REL. SAM DE GEORGE, RELATOR-  
APPELLANT

vs.

ANDREW JORDAN, DISTRICT DIRECTOR OF THE UNITED STATES IMMI-  
GRATION AND NATURALIZAION SERVICE, DEPARTMENT OF JUSTICE,  
CHICAGO, ILLINOIS, RESPONDENT-APPELLEEAppeal from the United States District Court for the Northern  
District of Illinois, Eastern Division

July 10, 1950

Before MAJOR, Chief Judge; LINDLEY and SWAIM, Circuit Judges

SWAIM, *Circuit Judge*:

This appeal is from an order of the District Court dismissing the application of Sam De George, relator, for a writ of *habeas corpus*.

The appellant, Sam De George, in 1921, when he was 17 years of age, entered this country from Italy. In 1928 he married an American citizen, and to this marriage two children were born. One died and the other, now 18 years of age, is a student in an American university. The relator has resided in Harvey, Illinois, for many years and has no police record in that town. A real estate man of Harvey, Illinois, wrote a letter for relator to use in his deportation hearing in which he said that he had known the relator for twenty years, during which time the relator had always been a good citizen "with the exception that during the prohibition days he became mixed up with bad company and violated the liquor laws."

In 1938 on his plea of guilty the relator was sentenced for a period of 1 year and 1 day on a charge of violating §88 of Title 18 U. S. C., 18 U. S. C. §88. The indictment charged a conspiracy to violate §3321 of Title 26 U. S. C., 26 U. S. C. A. §3321, in that the relator conspired to remove and conceal distilled spirits with intent to defraud the United States of tax thereon. On this first sentence he served 9 months and 18 days in the penitentiary at Atlanta, Georgia. The appellant was again convicted of the same offense in 1941, and was then sentenced for a period of two years to the federal prison at Fort Leavenworth, Kansas, where he served 19 months and 18 days. It is significant to note that in his description

of these two convictions the relator described them to the presiding inspector conducting the hearing for deportation as being convictions for conspiracy to violate the liquor laws.

Proceedings for his deportation were commenced in 1941, when the relator was a prisoner in the penitentiary at Fort Leavenworth. The final hearing on this proceeding was held in Chicago September 14, 1943, and the warrant for his arrest and deportation was issued January 11, 1946, pursuant to the provisions of the Immigration Act of 1917, 8 U. S. C. A. §155(a). This section provides for the deportation of any alien who, subsequent to May 1, 1947, is sentenced more than once to imprisonment for one year or more because of conviction in this country of any crime involving moral turpitude, committed at any time after his entry.

By his petition for a writ of *habeas corpus* the relator sought to be discharged from the custody of the District Director of the United States Immigration and Naturalization Service under the writ of Deportation, on the ground that the crimes for which he was sentenced did not involve moral turpitude. This contention presents the only question involved in this appeal.

When Congress enacted this statute providing for deportation of aliens it is clear that the intent was not to provide that all aliens who were twice sentenced for more than one year for crime were to be deported. It was necessary that such sentences be for crimes involving moral turpitude. The only possible purpose Congress could have had in inserting the provision "involving moral turpitude" in this statute was to classify or describe those crimes the commission of which by an alien, if resulting in convictions and sentences, would furnish grounds for deportation.

We find many definitions of moral turpitude. Webster's New International Dictionary, Second Edition, defines turpitude as meaning: "Foul, base. Inherent baseness or vileness of principle, words or actions; depravity." The same dictionary defines moral turpitude as being: "The quality of a crime involving grave infringement of the moral sentiment of the community as distinguished from statutory *mala prohibita*." In Bouvier's Law Dictionary, Rawle's Third Revision, moral turpitude is defined as "as act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man." This Court in *Ng Sui Wing v. United States*, 7 Cir., 46 F. 2d 755, page 756, used this latter definition in defining the term. From all of these definitions we are given the same idea—that crimes described as involving moral turpitude are only those crimes which shock the public conscience, such as crimes of violence, or crimes revealing inherent baseness, vileness or depravity. We find evidence in the legislative history of the Act that Congress

intended this provision of the Act to apply only to such infamous crimes. In the hearing before the committee of Immigration and Naturalization of the House, held on March 11, 1916, Congressman Sabath said he believed "in giving a man a chance who, due to conditions, commits some offense which really was not the crime of a hardened criminal." Police Commissioner Woods of New York City suggested to the committee, "I would make provision to get rid of an alien in this country who comes here and commits felonies and burglaries, holds you up on the streets, and commits crimes against our daughters, because we do not want that kind of alien here, and they have no right to be here."

In Volume II of Administrative Decisions under Immigration and Nationality Laws of the United States, p. 141, we find an administrative interpretation by the Department then having the administration of the Act. In an opinion on a deportation proceeding decided by the Board June 26, 1944, and approved by the Attorney General July 12, 1944, the following statement from an opinion by the Solicitor of the Department of Labor was quoted with approval:

"A crime involving moral turpitude may be either a felony or misdemeanor, existing at common law or created by statute, and is an act or omission which is *malum in se* and not merely *malum prohibitum*; which is actuated by malice or committed with knowledge and intention and not done innocently or without inadvertence or reflection; which is so far contrary to the moral law, as interpreted by the general moral sense of the community, that the offender is brought to public disgrace, is no longer generally respected, or is deprived of social recognition by good living persons; but which is not the outcome merely of natural passion, of animal spirits, of infirmity of temper, of weakness of character, of mistaken principles, *unaccompanied by a vicious motive or a corrupt mind*. (Italics supplied.)"

From the above definitions, legislative history and administrative interpretation, it seems perfectly obvious that Congress in describing crimes which would furnish a ground for the deportation of aliens had something more in mind than the mere violation of a statutory law. The limitation, "involving moral turpitude", must be taken as meaning that Congress intended to include in the classification only such infamous crimes as would grievously offend the moral code of mankind, such crimes as would have this effect even in the absence of any prohibitive statute.

As support for its contention that the crimes here in question involved moral turpitude, the government relies principally on three decisions: *Guarneri v. Kessler*, 5 Cir., 98 F. 2d 580; *U. S. ex rel.*

*Berlandi v. Reimer*, 2 Cir., 113 F. 2d 429; and *Maita v. Haff*, 9 Cir., 116 F. 2d 337.

In *Guarneri v. Kessler*, *supra*, the Court found that a conspiracy to smuggle alcohol, intended for beverage purposes, into the United States with intent to defraud the United States in violation of the Tariff Act of 1930, constituted a crime involving moral turpitude. The Court there defined moral turpitude very broadly as being, p. 581, "anything contrary to justice, honesty, principle or good morals." That definition would cover the violation of any criminal statute. The Court there pointed out, however, that:

"Smuggling is a crime at common law. *Keck v. United States*, 172 U. S. 434, 19 S. Ct. 254. Fraud is an ingredient of the offense and the statutes providing for its punishment are not merely prohibitory. We have no hesitancy in holding that to clandestinely introduce goods into the United States with intent to defraud the revenue is dishonest and fraudulent and involves moral turpitude."

In pointing out that smuggling was a crime at common law the Court was apparently bolstering its holding that the crime there being considered involved moral turpitude. We think the common concept of those who engage in smuggling as a business is that they are dangerous criminals, criminals who would use any force or violence necessary to meet the dangers with which the business of smuggling is fraught.

In *U. S., ex rel. Berlandi v. Reimer*, *supra*, the Court held that the same crime which we are considering in the instant case did involve moral turpitude. There also the relator conspired to violate the internal revenue laws by depositing and concealing distilled spirits with intent to defraud the United States of the taxes imposed thereon. The Court said, page 430:

"We think it cannot be said that one who conducts a business with intent to defraud the government of taxes \* \* \* stands in a different position from that of a person who defrauds a private citizen of property. An intent to steal or defraud in the latter case has repeatedly been held to render an offense one which involves moral turpitude and for which an alien may be deported or excluded under the Immigration Laws."

The only other decision by a United States Court of Appeals holding that dealing with alcohol with intent to defraud the United States of the tax thereon constituted a crime involving moral turpitude is *Maita v. Haff*, 9 Cir., 116 F. 2d 337. In that decision the Court simply announced without discussion or the citation of authorities, p. 337, "This crime involves moral turpitude."



We find ourselves unable to agree with the holding in these two decisions.

In the case at bar the relator and others were twice apprehended operating an illicit still and distributing alcohol on which the tax had not been paid. In the *Berlandi* case the Court pointed out that before the repeal of the 18th Amendment prosecutions under the internal revenue statutes "were but alternatives for prosecutions under the Volstead Act," and convictions under the various statutes might have been treated alike so far as any question of moral turpitude was concerned. By that language the Court conceded that while prohibition was in effect a defendant on the same set of facts could have been either prosecuted under the Volstead Act or under the internal revenue laws, and that the violation of neither law would have been held to involve moral turpitude. The Court supported its holding in the *Berlandi* case that after repeal, a violation of the internal revenue laws by evading payment of the excise tax on liquor involved moral turpitude by arguing that prior to repeal the manufacture and sale of liquor was unlawful; that paying tax thereon would not make it lawful; and that therefore there would be no specific intent to defraud the government, "but only a general purpose to disregard the prohibition laws." But, the Court said, p. 430,

"Since the repeal, however, the situation would seem to be different for the business can now be lawfully conducted by the payment of internal revenue taxes, and the specific intent becomes one of enhancing profits by evading taxes, rather than of satisfying the demand for liquor which the Prohibition Act refused to sanction."

In other words, the Court would have us determine that there was or was not moral turpitude involved in a certain crime depending only upon the purpose which the perpetrator of the crime had in mind at the time the crime was committed. This would seem to be an untenable position.

The relator here would have been found guilty of the two crimes for which he was convicted and sentenced on proof of his having with others manufactured and sold the liquor without the payment of tax, whatever his specific purpose might have been. He would still have been found guilty if he had never heard of the requirement of payment of tax on the liquor involved. It is evident from his testimony before the Immigration Inspector that the relator thought he had been convicted of conspiracy to violate the liquor laws, not the internal revenue laws. The record indicates that he had been guilty of violating the liquor laws during prohibition. The courts almost uniformly held that such violations did not involve moral turpitude. *Bartos v. U. S. District Court*, 8 Cir., 19 F. 722; *Coy-*

*kendall v. Skrmetta*, 5 Cir., 22 F. 2d 120; *U. S. ex rel. Iorio v. Day*, 2 Cir., 34 F. 2d 920.

Judge Mavis of the United States Court of Appeals for the Third Circuit, in *U. S. ex rel. Manzella v. Zimmerman*, D. C., E. D., Penn., 71 Supp. 534, held that breaking prison and escaping did not involve moral turpitude within the meaning of the Immigration Act. The indictment there alleged that the alien "did break prison and escaped with force of arms." The Court pointed out however, that in determining whether a certain crime involves moral turpitude we must consider "the inherent nature of the crime under any and all circumstances," and that "the proper test is to consider whether a prison breach accomplished by the least imaginable force \* \* \* for example, by prying open the bars of a window or forcing the lock of a door," would constitute a crime involving moral turpitude. The Court concluded that in view of the fact that the crime of prison breach could be committed under such circumstances, "I cannot say that the action of an escaping prisoner involves that element of baseness, vileness or depravity which has been necessarily inherent in the concept of moral turpitude." If we apply this reasoning to the ground on which the Court based its opinion in the *Berlandi* case, it would seem that the crime there under consideration should not have been held to have involved moral turpitude.

But, if we adopt the reasoning of the Court in the *Berlandi* case and say that the purpose and specific intent of the relator there, after the repeal of Prohibition, was necessarily to evade taxes, rather than to satisfy the demand for liquor, we still are of the opinion that the crime should not be held to involve moral turpitude within the meaning of §155 of the Immigration Act. We agree with the thought expressed in the dissenting opinion of Judge Learned Hand in the *Berlandi* case, 113 F. 2d 429, 431, that the evasion of taxes should be commonly thought to be more morally shameful than it is but that many, many people who in private affairs are altogether right-minded seem to see nothing serious in evading taxes and this seems particularly true of excise taxes on liquor. Judge Hand also said in that dissent:

"\* \* \* and surely it is quite beyond measure to compare its disrepute with defrauding an individual. There is always the danger in construing this statute that we shall substitute logic for fact and deport a man for what people ought consistently to think of him, rather than for what they do; moreover, it is always embarrassing to appear to condone any deliberate violation of law. But, as we said in *United States ex rel. Iorio v. Day*, 2 Cir., 34 F. 2d 920, we must try to appraise the moral repugnance of the ordinary man towards the conduct

in question; not what an ideal citizen would feel. That decision, in my opinion, rules this situation and the order should be reversed."

In *United States v. Carrollo*, D. C., W. D. Mo., 30 F. Supp. 3, 7, the Court in discussing the proper interpretation of moral turpitude in a deportation case said:

"We are not prepared to rule that an attempt to evade the payment of a tax due the nation, or the commonwealth, or the city, or the school district, wrong as it is, unlawful as it is, immoral as it is, is an act evidencing baseness, vileness or depravity of moral character. The number of men who have at some time sought to evade the payment of a tax or some part of a tax to some taxing authority is legion. Any man who does that should be punished civilly or by criminal sentence, but to say that he is base or vile or depraved is to misuse words."

While this statement on evasion of tax was not necessary to that decision, we consider it a correct statement.

A statute authorizing deportation should be most strictly construed. In *Fong Haw Tan v. Phelan*, 333 U. S. 6, page 10, the Supreme Court in construing another portion of the same section of the Act with which we are here concerned said:

"We resolve the doubts in favor of that construction (a liberal construction) because deportation is a drastic measure and at times the equivalent of banishment or exile, *Delgadillo v. Carmichael*, 332 U. S. 388. It is the forfeiture for misconduct of a residence in this country. Such a forfeiture is a penalty. To construe this statutory provision less generously to the alien might find support in logic. But since the stakes are considerable for the individual, we will not assume that Congress meant to trench on his freedom beyond that which is required by the narrowest of several possible meanings of the words used."

If we follow this rule of construction we must hold that crimes involving moral turpitude, as those words are used in §155 of the Immigration Act, were intended to include only crimes of violence, or crimes which are commonly thought of as involving baseness, vileness or depravity. Such a classification does not include the crime of evading the payment of tax on liquor, nor of conspiring to evade that tax.

The judgment of the District Court is reversed and the cause remanded with instructions to enter an order discharging the relator.

A True Copy:

Teste:

\_\_\_\_\_  
*Clerk of the United States Court of  
 Appeals for the Seventh Circuit.*

And on the same day, to-wit, on the tenth day of July, 1950, the following further proceedings were had and entered of record, to-wit:

**UNITED STATES COURT OF APPEALS FOR THE SEVENTH  
 CIRCUIT**

Chicago 10, Illinois

Monday, July 10, 1950

Before Hon. J. EARL MAJOR, Chief Judge; Hon. WALTER C. LINDLEY,  
 Circuit Judge, Hon. H. NATHAN SWAIM, Circuit Judge.

No. 10016

UNITED STATES OF AMERICA, EX REL. SAM DE GEORGE, RELATOR-  
 APPELLANT,

vs.

ANDREW JORDAN, DISTRICT DIRECTOR OF THE UNITED STATES IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE, CHICAGO, ILLINOIS, RESPONDENT-APPELLEE

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division

This cause came on to be heard on the transcript of the record from the United States District Court for the Northern District of Illinois, Eastern Division, and was argued by counsel.

On consideration whereof, it is ordered and adjudged by this Court that the judgment of the said District Court in this cause appealed from be, and the same is hereby, Reversed, and that this cause be, and the same is hereby, remanded to the said District Court with instructions to enter an order discharging the relator.



UNITED STATES COURT OF APPEALS FOR THE SEVENTH  
CIRCUIT

Chicago 10, Illinois

I, KENNETH J. CARRICK, Clerk of the United States Court of Appeals for the Seventh Circuit, do hereby certify that the foregoing typewritten pages contain a true copy of the opinion of the Court, filed July 10, 1950, and the judgment of the Court, entered July 10, 1950, in Cause No. 10016, U. S. A. ex rel. Sam De George vs. Andrew Jordan, District Director, etc., as the same remains upon the files and records of the United States Court of Appeals for the Seventh Circuit.

In testimony whereof I hereunto subscribe my name and affix the seal of said United States Court of Appeals for the Seventh Circuit, at the City of Chicago, this ninth day of September A. D. 1950.

KENNETH J. CARRICK,  
*Clerk of the United States Court of  
Appeals for the Seventh Circuit.*  
By R. HAYES BLANCHARD,  
*Chief Deputy Clerk.*

[SEAL.]

## Supreme Court of the United States

No. 348, October Term, 1950

*Order allowing certiorari*

Filed November 27, 1950

The petition herein for a writ of certiorari to the United States Court of Appeals for the Seventh Circuit is granted. The case is transferred to the summary docket.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.